

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS AND VERIZON CORPORATE  
SERVICES GROUP INC.,

*Defendants.*

Case No. 2:23-cv-00352-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

T-MOBILE USA, INC. AND SPRINT CORP.,

*Defendants.*

Case No. 2:23-cv-00377-JRG-RSP

(Member Case Under -379 Action)

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

T-MOBILE USA, INC. AND SPRINT CORP.,

*Defendants.*

Case No. 2:23-cv-00379-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

AT&T SERVICES, INC., AT&T MOBILITY,  
LLC AND AT&T CORP.,

*Defendants.*

Case No. 2:23-cv-00397-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

AT&T SERVICES, INC., AT&T MOBILITY,  
LLC AND AT&T CORP.,

*Defendants.*

Case No. 2:23-cv-00398-JRG-RSP

(Member Case Under -397 Action)

JURY TRIAL DEMANDED

**JOINT MOTION TO AMEND DOCKET CONTROL ORDERS**

Plaintiff Headwater Research, LLC (“Headwater”) and Defendants Cellco Partnership, d/b/a Verizon Wireless and Verizon Corporate Services Group Inc. (collectively, “Verizon”); T-Mobile USA, Inc. and Sprint Corp. (collectively, “T-Mobile”); and AT&T Services, Inc., AT&T Mobility, LLC, and AT&T Corp. (collectively, “AT&T”) (all together, the “parties”) respectfully file this Joint Motion to Amend the Docket Control Order entered in the above-captioned cases and would show the Court as follows:

The parties have been diligently working to complete discovery but have encountered unavoidable conflicts and other circumstances that provide good cause to modify the schedule in each case to extend all deadlines by approximately 3-4 weeks, including the trial date. *See* Ex. A (Verizon Proposed DCO); Ex. B (T-Mobile Proposed DCO); Ex. C (AT&T Proposed DCO).

These cases involve three defendants, with the same four patents asserted against each defendant. To conserve Court and party resources, the parties have made significant efforts to coordinate in discovery, including by combining depositions across cases where possible and by leveraging deposition testimony from prior cases to streamline several depositions. The parties have also obviated numerous depositions through stipulations.

Nonetheless, the parties have encountered significant challenges in attempting to complete fact discovery, including the taking of depositions of third parties and party witnesses with very limited availability. The parties began taking depositions on December 5, 2024, within two weeks of the combined claim construction hearing, and have already completed over 20 depositions. This includes several completed third-party depositions. The parties will also complete 8 more depositions on January 10, 2025, which is the current close of fact discovery in each case. But there remain approximately 25 witnesses whose unavoidable conflicts and other scheduling limitations have made them unavailable for deposition until after January 10, including multiple critical 30(b)(6) witnesses and important third parties. This includes, for example, 30(b)(6) designees on financials and technical operations of the accused products. It also includes third-party corporate representatives of accused product manufacturers like Google, who will provide testimony on source code and technical documents describing the operation of the accused products. In addition, the parties are still attempting to schedule depositions of several third-party witnesses who have been subpoenaed but have yet to provide their availability, including former employees of the parties who were involved in the pre-suit history between the parties.

Several of these witnesses have significant conflicts until late January or early February, explaining the length of the proposed extension. As one example, third party Thomas Russell's first availability for deposition is January 28, 2025. Mr. Russell was subpoenaed by Headwater in August 2024, and Headwater believes he has allegedly important relevant information concerning the history between Headwater and Verizon, which Headwater believes is highly relevant to its infringement and damages case. As another example, Headwater's sole 30(b)(6) witness and named inventor on all asserted patents, Dr. Greg Raleigh, has very limited availability during the month of January due to the forthcoming trials in *Headwater Research LLC v. Samsung*

*Electronics Co. Ltd.*, Case No. 2:22-cv-00422-JRG-RSP (“the -422 Action”) and *Headwater Research LLC v. Samsung Electronics Co. Ltd.*, Case No. 2:23-cv-00103-JRG-RSP (“the -103 Action”). Both of these trials are scheduled for January 13, 2025, with the -422 Action in the first position among cases with this trial setting. Headwater and Dr. Raleigh are diligently preparing for trial in the -422 Action on January 13, as well as for trial in the -103 Action should that be reset to the next trial setting of January 27. Should that happen, Headwater would make Dr. Raleigh available for his multiple-day deposition the week immediately following trial in the -103 Action (i.e., the week of February 3-7). As still other examples, third-party Google’s sole witness on source code and the technical operation of numerous accused features, is scheduled for deposition on January 31. Given the number and import of depositions that will necessarily occur after the current close of fact discovery of January 10, the parties would strongly prefer to avoid supplementation of expert reports and the Court and party resources that such supplementation would likely require.

These timing challenges are also greatly exacerbated by the recent and devastating wildfires impacting the Los Angeles area, where Headwater’s counsel is located. Several of Headwater’s attorneys deeply involved in these cases and the upcoming trials in the -422 Action and -103 Action have already lost their homes in the last 48 hours. Several other Headwater attorneys and experts, and their families, have evacuated their homes as a result of these ongoing wildfires, which are still far from contained. Headwater is not seeking a continuance of next week’s trial in the -422 Action, which was originally scheduled for August but was continued to January following a continuance requested by Samsung. Nonetheless, the wildfire situation has been and continues to be a challenge to juggling the work to be done in the above-captioned cases, the trial settings, and coordinating with families to address the immediate and long-term results of the fires.

The parties appreciate that requests to continue trial dates are not taken lightly and are challenging for the Court to accommodate. The parties confirm that the requested schedule modifications are not being presented so that new depositions can be taken or new discovery requests served. The parties represent that this Motion is not filed for the purposes of delay but rather so that justice may be served. The parties have met and conferred and are jointly seeking the relief sought in this Motion.

Accordingly, the parties respectfully request that the Court grant this Joint Motion and enter the accompanying Amended Docket Control Order submitted for each case and schedule these cases for trial on the requested dates or as soon thereafter as is practicable for the Court. *See* Ex. A (Verizon Proposed DCO); Ex. B (T-Mobile Proposed DCO); Ex. C (AT&T Proposed DCO).

Dated: January 10, 2025

<u>/s/ Katherine Q. Dominguez</u>	<u>/s/ Marc Fenster</u>
Katherine Q. Dominguez	Marc Fenster
kgdominguez@gibsondunn.com	CA State Bar No. 181067
Josh A. Krevitt	Email: mfenster@raklaw.com
jkrevitt@gibsondunn.com	Reza Mirzaie
Brian A. Rosenthal	CA State Bar No. 246953
brosenthal@gibsondunn.com	Email: rmirzaie@raklaw.com
Charles Sim	Brian Ledahl
csim@gibsondunn.com	CA State Bar No. 186579
Eli Balsam	Email: bledahl@raklaw.com
ebalsam@gibsondunn.com	Ben Wang
<b>GIBSON, DUNN &amp; CRUTCHER LLP</b>	CA State Bar No. 228712
200 Park Avenue	Email: bwang@raklaw.com
New York, NY 10166-0193	Adam Hoffman
Telephone: 212.351.4000	CA State Bar No. 218740
Facsimile: 212.351.4035	Email: ahoffman@raklaw.com
Robert Vincent	Dale Chang
rvincent@gibsondunn.com	CA State Bar No. 248657
<b>GIBSON, DUNN &amp; CRUTCHER LLP</b>	Email: dchang@raklaw.com
2001 Ross Avenue, Suite 2100	Paul Kroeger
Dallas, TX 75201	CA State Bar No. 229074
	Email: pkroeger@raklaw.com

Telephone: 214.698.3112  
Facsimile: 214.571.2910

Andrew W. Robb (CA Bar No. 291438)  
arobb@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
310 University Avenue  
Palo Alto, CA 94301  
Telephone: 650.849.5334  
Facsimile: 650.849.5034

Hannah Bedard  
hbedard@gibsondunn.com  
Michelle Zhu  
mzhu@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Telephone: 202.777.9413  
Fax: 202.831.6063

Celine Crowson (D.C. Bar No. 0436549A)  
**Hogan Lovells**  
555 13th St NW,  
Washington, DC 20004  
Telephone: 202-637-5600  
celine.crowson@hoganlovells.com

Tej Singh (California Bar No. 286547)  
Yi Zhang (California Bar No. 342823)  
Kyle Xu (California Bar No. 344100)  
**Hogan Lovells**  
4 Embarcadero Center Suite 3500  
San Francisco CA, 94111  
Telephone: 415-374-2300  
tej.singh@hoganlovells.com  
yi.zhang@hoganlovells.com  
kyle.xu@hoganlovells.com

Deron R. Dacus  
ddacus@dacusfirm.com  
**THE DACUS FIRM, P.C.**  
821 ESE Loop 323, Suite 430  
Tyler, TX 75701  
Phone: 903.705.1117

Neil A. Rubin  
CA State Bar No. 250761  
Email: nrubin@raklaw.com  
Kristopher Davis  
CA State Bar No. 329627  
Email: kdavis@raklaw.com  
James S. Tsuei  
CA State Bar No. 285530  
Email: jtsuei@raklaw.com  
Philip Wang  
CA State Bar No. 262239  
Email: pwang@raklaw.com  
Amy Hayden  
CA State Bar No. 287026  
Email: ahayden@raklaw.com  
Ryan Lundquist  
CO State Bar No. 56449  
Email: rlundquist@raklaw.com  
Jason M. Wietholter  
CA State Bar No. 337139  
Email: jwietholter@raklaw.com  
Qi (Peter) Tong  
TX State Bar No. 24119042  
Email: ptong@raklaw.com  
**RUSS AUGUST & KABAT**  
12424 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90025  
Telephone: 310-826-7474

Andrea L. Fair  
TX State No. 24078488  
**MILLER FAIR HENRY PLLC**  
1507 Bill Owens Parkway  
Longview, Texas 75604  
Telephone: 903-757-6400  
andrea@millerfairhenry.com

**ATTORNEYS FOR PLAINTIFF,  
Headwater Research LLC**

*Attorneys for Verizon*

/s/ Katherine Q. Dominguez

Katherine Q. Dominguez

kdominguez@gibsondunn.com

Josh A. Krevitt

jkrevitt@gibsondunn.com

Brian A. Rosenthal

brosenthal@gibsondunn.com

Charles Sim

csim@gibsondunn.com

Eli Balsam

ebalsam@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

200 Park Avenue

New York, NY 10166-0193

Telephone: 212.351.4000

Facsimile: 212.351.4035

Robert Vincent

rvincent@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

2001 Ross Avenue, Suite 2100

Dallas, TX 75201

Telephone: 214.698.3112

Facsimile: 214.571.2910

Andrew W. Robb (CA Bar No. 291438)

arobb@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

310 University Avenue

Palo Alto, CA 94301

Telephone: 650.849.5334

Facsimile: 650.849.5034

Hannah Bedard

hbedard@gibsondunn.com

Michelle Zhu

mzhu@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

1700 M Street N.W.

Washington, D.C. 20036

Telephone: 202.777.9413

Fax: 202.831.6063

Celine Crowson (D.C. Bar No. 0436549A)

**Hogan Lovells**  
555 13th St NW,  
Washington, DC 20004  
Telephone: 202-637-5600  
celine.crowson@hoganlovells.com

Tej Singh (California Bar No. 286547)  
Yi Zhang (California Bar No. 342823)  
Kyle Xu (California Bar No. 344100)

**Hogan Lovells**  
4 Embarcadero Center Suite 3500  
San Francisco CA, 94111  
Telephone: 415-374-2300  
tej.singh@hoganlovells.com  
yi.zhang@hoganlovells.com  
kyle.xu@hoganlovells.com

Melissa R. Smith  
melissa@gillamsmithlaw.com  
**GILLIAM & SMITH, LLP**  
303 South Washington Avenue  
Marshall, TX 75670  
Telephone: 903-934-8450  
Facsimile: 903-934-9257

*Attorneys for T-Mobile*

/s/ Nicholas Mathews  
Nicholas Mathews  
Texas State Bar No. 24085457  
nmathews@McKoolSmith.com  
Alexander J. Chern  
Texas State Bar No. 24109718  
achern@McKoolSmith.com  
Clare Churchman  
Texas State Bar No. 24132041  
cchurchman@mckoolsmith.com  
**McKool Smith, P.C.**  
300 Crescent Court Suite 1500  
Dallas, TX 75201  
Telephone: (214) 978-4000  
Telecopier: (214) 978-4044

Kevin Hess  
Texas State Bar No. 24087717

khess@mckoolsmith.com  
**McKool Smith, P.C.**  
303 Colorado Street, Suite 2100  
Austin, TX 78701  
Telephone: (512) 692-8752

Sean O'Leary  
Texas State Bar No. 24138326  
soleary@mckoolsmith.com  
**MCKOOL SMITH, P.C.**  
600 Travis Street, Suite 7000  
Houston, TX 77002  
Telephone: (713) 485-7300  
Telecopier: (713) 485-7344

Deron R. Dacus  
State Bar No. 00790553  
ddacus@dacusfirm.com  
**The Dacus Firm, PC**  
821 ESE Loop 323, Suite 430  
Tyler, TX 75701  
Telephone: (903)705-1117  
Facsimile: (903) 581-2543

Attorneys for AT&T Corp., AT&T  
Mobility LLC, and AT&T Services, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 10th day of January 2025, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Marc Fenster*  
Marc Fenster

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel complied with the requirements of Eastern District of Texas Local Rule CV-7(h). The parties are in agreement on filing this Joint Motion.

*s/ Marc Fenster*  
Marc Fenster